

CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

122.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, social security number, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. The application shall also include the motor vehicle make, model, year, color and registration number if a vehicle is to be used in the business. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license.

- 1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of ten dollars (\$10.00) per year.
- 2. Peddlers or Transient Merchants.
 - A. For one day\$ 5.00
 - B. For one week\$ 10.00
 - C. For up to six (6) months\$ 20.00
 - D. For one year or major part thereof...\$ 25.00

122.06 BONDS REQUIRED.

1. Before a license under this chapter is issued, each principal shall post a bond, by a surety company authorized to engage in the business of insuring the fidelity of others in Iowa, in the amount of one thousand dollars (\$1,000.00) with the Clerk to the effect that the registrant and the surety shall consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary either to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter or to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with such registrant's peddling or solicitation. Said bond shall not be retired until after a lapse of one year from the expiration of the license which it covers.

2. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the

applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of nine o'clock (9:00) a.m. and six o'clock (6:00) p.m. and no license shall be effective on Sundays or legal holidays.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. **Fraudulent Statements.** The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. **Violation of Law.** The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. **Endangered Public Welfare, Health or Safety.** The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Shenandoah Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS.

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

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ORDINANCE NO. 2019 - 09

AN ORDINANCE AMENDING CHAPTER 122 SECTION 122.05 OF THE CODE OF ORDINANCES OF THE CITY OF SHENANDOAH

BE IT ENACTED by the City Council of the City of Shenandoah, Iowa:

SECTION 1. SECTION MODIFIED. Chapter 122 Section 122.05 2. of the Code of Ordinances of Shenandoah, Iowa is amended as follows:

Existing Section 122.05 2. is removed, replaced with:

122.05 2. Peddlers or Transient Merchants.

- A. For one day \$10.00
- B. For one week \$15.00
- C. For one month \$20.00
- D. For up to six months \$60.00
- E. For one year \$120.00

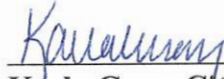
Section 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

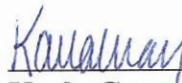
PASSED AND APPROVED by the Council this 9th day of July, 2019.


Richard N. Hunt, Mayor

ATTEST:


Karla Gray, City Clerk

I certify that the foregoing was published as Ordinance No. 2019-09 on the 24th day of July, 2019.


Karla Gray, City Clerk

ORDINANCE NO. 2021 - 02

AN ORDINANCE AMENDING CHAPTER 122 SECTION PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

BE IT ENACTED by the City Council of the City of Shenandoah, Iowa:

SECTION 1. SECTION MODIFIED. Section 122.02 Definitions shall have a fourth definition that reads as follows:

4. "Non-Transient Merchant" means a community sponsored activity that is requested to come to town such as a farmer's market, vendors' fair or like activity sponsored by a community organization to create a festival atmosphere through the gathering of a group of people under the supervision of a community organization likely to involve temporary or itinerant merchandising.

SECTION MODIFIED. Section 122.03 shall have a second paragraph that reads as follows:

Any person or organization engaging in "Non-Transient Merchant" activities shall be required to file an application form with the City of Shenandoah in support of the activities and provide all support services and collect such fees as needed to cover costs (port-a-potties, trash cans and the like). Each application shall be approved or disapproved by the city with reliance on the community organization sponsor to provide any needed manpower without reliance upon city staff.

SECTION MODIFIED. Section 122.06 shall be amended as follows:


Before a permit or license is granted under this chapter, each Peddler, Solicitor, and Transient Merchant shall provide proof of general liability insurance of not less than \$15,000. The bond requirement under 12.06 shall apply only to construction, roofing, driveway repair and similar activities, but would not include door to door sales, food truck, or similar activities.

The balance of Chapter 122 remains unchanged.

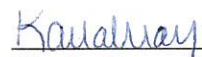
Section 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

PASSED AND APPROVED by the Council this 25th day of May 2021.


Richard N. Hunt, Mayor

ATTEST:


Karla Gray, City Clerk

I certify that the foregoing was published as Ordinance No. 2021-02 on the 5th day of June, 2021.


Karla Gray, City Clerk